

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JONATHAN LEE RICHES,

Plaintiff,

V.

**WARREN BUFFETT, and BERKSHIRE
HATHAWAY, INC.,**

Defendants.

CASE NO. 8:07CV388

MEMORANDUM AND ORDER

This matter is before the court on the plaintiff's motion for leave to proceed in forma pauperis ("IFP"). (Filing No. 3.) The court has received a certified copy of the plaintiff's trust account information. (Filing No. 4.) The plaintiff's IFP motion was provisionally granted by a prior order. (Filing No. 6). This order modifies and replaces the prior order.

Pursuant to the Prison Litigation Reform Act, a prisoner plaintiff is required to pay the full amount of the court's \$350.00 filing fee by making monthly payments to the court, even if the prisoner is proceeding IFP. 28 U.S.C. § 1915(b). "[T]he PLRA makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal." *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997); *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 (D. Neb. 2001).

Plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of the plaintiff's average monthly account balance or average monthly deposits for the six months preceding the filing of the complaint. The court finds that the initial partial filing fee is \$7.56, based on an average monthly account balance of \$37.82. Payment of the initial partial filing fee must be received by the court by December 13, 2007. The plaintiff may request an extension of time if needed.

In addition to the initial partial filing fee, the plaintiff must “make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account.” 28 U.S.C. § 1915(b)(2). The statute places the burden on the prisoner’s institution to collect the additional monthly payments and forward them to the Court. 28 U.S.C. § 1915(b). Therefore, after payment in full of the initial partial filing fee, the remaining installments shall be collected pursuant to 28 U.S.C. § 1915(b)(2):

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

The Clerk of Court shall send a copy of this memorandum and order to the appropriate financial official at the plaintiff’s institution. The plaintiff will remain responsible for the entire filing fee, as long as he is a prisoner, even if the case is dismissed at some later time. See *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997); *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 (D. Neb. 2001).

IT IS THEREFORE ORDERED that:

1. The court’s prior order provisionally granting the plaintiff leave to proceed in forma pauperis, (Filing No. 6), is withdrawn. The plaintiff’s motion to proceed IFP (Filing No. 3), is granted as set forth in the remainder of this order;
2. The Plaintiff shall pay an initial partial filing fee of \$7.56 by December 13, 2007, unless an enlargement of time is granted in response to a written motion;
3. After payment of the initial partial filing fee, the plaintiff’s institution shall collect the additional monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2), quoted above, and shall forward those installments to the court;
4. The Clerk of the court is directed to send a copy of this order to the appropriate official at the plaintiff’s institution;

5. The Clerk of the court is directed to set a pro se case management deadline in this case using the following text: December 13, 2007: initial partial filing fee payment due; and
6. Plaintiff shall keep the court informed of his current address at all times, and that all parties are bound by the Federal Rules of Civil Procedure and by the court's Local Rules, while this case is pending.

DATED this 8th day of November, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge